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EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO THE UNITED NATIONAL HUMAN RIGHTS INSTRUMENTS

Report of the Secretary-General

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I. INTRODUCTION

1. The original study on the effective operation of existing and prospective bodies established under United Nations human rights instruments was initiated pursuant to General Assembly resolution 43/115 of 8 December 1988 and Commission on Human Rights resolution 1989/47, carried out by Mr. Philip Alston during the period 1989 to 1992 and transmitted to the General Assembly in document A/44/668, annex.

2. In its resolution 47/111 of 16 December 1992, the General Assembly requested that the report be updated for submission to the fiftieth session of the Commission on Human Rights and that an interim report be presented to the General Assembly at its forty-eighth session, and be made available to the World Conference on Human Rights in June 1993. Pursuant to that resolution, as well as Commission on Human Rights resolution 1993/16 of 26 February 1993, Mr. Alston undertook to update his original study, submitting an interim report thereon in document A/CONF.157/PC/62/Add.11/Rev.1 and a final report in document E/CN.4/1997/74, which was submitted to the fifty-third session of the Commission on Human Rights in 1997. By its decision 1997/105, the Commission on Human Rights invited the Secretary-General to solicit the views of United Nations bodies, Governments, specialized agencies, intergovernmental and non-governmental organizations and interested persons on the report of the independent expert and to submit a report thereon, including the Secretary-General's own views on the legal, administrative and other implications of the report's recommendations, to the Commission on Human Rights at its fifty-fourth session.

3. The present report contains a summary of the comments and observations provided by those consulted pursuant to decision 1997/105, as well as the Secretary-General's own views on the legal, administrative and other implications of the report's recommendations, where appropriate. In order to facilitate discussion, the present report presents the issues raised and recommendations made by the independent expert and summarizes the responses received with respect to each.

4. Comments were received from the Governments of Australia, Canada, Cyprus, Finland, Israel, the Netherlands, Norway and the Republic of Korea. The United Nations departments and specialized agencies that submitted comments were: the Crime Prevention and Criminal Justice Division, the United Nations Children's Fund (UNICEF), the Office of the United Nations High Commissioner for Refugees (UNHCR), and the International Labour Organization (ILO). The following non-governmental organizations submitted their views: Inter-Church Committee for Refugees, Grand Council of the Crees (of Quebec), North-South XXI and the NGO Group for the Convention on the Rights of the Child. Comments have also been received from a number of "interested persons", in the meaning of Commission on Human Rights decision 1997/105: Mr. Leo Zwaak and Ms. Ineke Boerefijn, both researchers at the Netherlands Institute of Human Rights (SIM); Mr. Michael O'Flaherty, specialist/author on human rights treaty bodies; Mr. Craig Scott, professor of law at the University of Toronto. The full texts of all comments received are available for consultation in the files of the Secretariat. In addition, the seventh meeting of persons chairing the human rights treaty bodies, held in September 1996, discussed in detail the improvement of the operation of the

human rights treaty bodies. At their eighth meeting, in September 1997, the chairpersons addressed the recommendations contained in the final report of the independent expert. Their conclusions are available in the annexes to documents A/51/482 and A/52/507, respectively, and should be read together with the present report.

II. SUMMARY OF THE RECOMMENDATIONS OF THE INDEPENDENT EXPERT, COMMENTS RECEIVED AND VIEWS OF THE SECRETARY-GENERAL THEREON

A. Towards universal ratification

Recommendations of the independent expert

5. According to the independent expert, universal ratification of the six core United Nations human rights treaties would establish the best possible foundation for international endeavours to promote respect for human rights. In his final report, he made four specific recommendations: (a) consultations with the leading international agencies to explore their potential involvement in a ratification campaign; (b) appointment of special advisers on ratification and reporting and the earmarking of funds for those purposes; (c) examination of special measures to streamline the reporting process for States with small populations; and (d) granting particular attention to other substantial categories of non-parties (E/CN.4/1997/74, paras. 14, 31-35, 111).

Government comments

6. The Government of Australia stated that the provision of assistance to States wishing to ratify one or more of the six core treaties was an important part in the promotion of universal ratification. In this context, further consideration should be given to the role of the advisory services programme of the Office of the High Commissioner for Human Rights, ways and means to increase resources and how best to utilize them.

7. The Government of Canada agreed that assistance to States that were willing to ratify human rights instruments but were encountering practical difficulties in doing so was an important element in promoting universal ratification. Such assistance should be pursued within the limits of available resources. Special thought should be given to the role of the advisory services programme in that regard, and avenues should be explored by which additional sources of funding for such action could be tapped. Canada believed that the reporting process for States with small populations should be streamlined in order to facilitate ratification.

8. The Government of Cyprus took note of the independent expert's recommendations for more innovative approaches to deal with existing and future amendments to the human rights treaties. Pending adoption of any such approaches, Cyprus presented a suggestion that might assist those Governments that are confronted with the need to constantly "process" international agreements. The Office of the High Commissioner for Human Rights should, in each case where an amendment or a new protocol has been approved, submit a standardized reasoned memorandum for use by each State's executive and legislature, as well as a model draft statute enacting the relevant amendment

or protocol. Provision of such model statutes would assist States whose legal systems require that enabling legislation be enacted before international treaties can become operative; this would facilitate ratifications by small States.

9. The Government of Finland expressed concern about the gap between standard-setting and implementation in the field of human rights. The six core United Nations human rights treaties and their protocols formed a solid and comprehensive legal basis for the promotion and protection of all human rights. It was most important to achieve universal acceptance of those treaties, as was strongly recommended by the World Conference on Human Rights in the Vienna Declaration and Programme of Action.

10. The Government of the Netherlands supported the recommendation to appoint special advisers to the High Commissioner for Human Rights who could provide invaluable assistance to States experiencing difficulties relating to ratification. The Netherlands suggested that an expert on legal issues also be appointed. A political adviser and a technical adviser alone would not be sufficient to address the complex legal issues involved in accession to or ratification of international treaties. The addition of a legal adviser could ensure adequate expert support to States willing to ratify the conventions but needing advice on national implementation measures.

Comments by United Nations agencies and bodies

11. UNICEF indicated that since the adoption by the General Assembly in 1989 of the Convention on the Rights of the Child, it has actively promoted the universal ratification of the Convention. To that end, UNICEF initiated a wide range of actions at the global, regional and national levels in order to generate the necessary political support for the Convention. This involved collaborating with a number of partners, particularly non-governmental organizations and intergovernmental organizations in different regions of the world, such as the Organization of African Unity, the Commonwealth, the European Union, the Organization of the Islamic Conference and others. Country offices carried out advocacy and social mobilization activities in order to increase national support for ratification by reaching out to parliamentarians, religious leaders, mayors and municipal leaders, youth groups and many others.

12. The ILO has been coordinating a campaign for universal ratification of its fundamental human rights conventions. Since the Director-General launched his appeal in May 1995, there have been 80 ratifications of these 7 conventions, and some 30 countries had now ratified all of them. A large number of further ratifications were expected shortly.

13. In addition, at its two hundred and sixty-ninth session in June 1997, the Governing Body of the International Labour Organization decided to consider the possibility of including on the agenda of the eighty-sixth session of the International Labour Conference in 1998 - which marks the fiftieth anniversary of the Universal Declaration of Human Rights and the ILO's Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) - an additional item relating to a declaration on fundamental rights, including an appropriate follow-up mechanism. The purpose

of a declaration on fundamental rights would be to recognize explicitly, through a solemn statement approved by the International Labour Conference, the consensus which the international community has reached regarding the special significance of a number of fundamental rights in the present global context, and to express the commitment of its constituents to strengthening their universal application by the ILO.

14. The concept of fundamental rights may be traced to the ILO Constitution, in which the High Contracting Parties affirmed that there are methods and principles for regulating labour conditions which all industrial communities should endeavour to apply, so far as their special circumstances will permit, and that among them, some seemed to be of special and urgent importance.

Comments by non-governmental organizations

15. North-South XXI noted that certain permanent members of the Security Council were not parties to the principal legal instruments, which acted as a disincentive to smaller States.

Comments by interested persons

16. Mr. Zwaak and Ms. Boerefijn noted that the recent announcements of withdrawal by the Democratic People's Republic of Korea from the International Covenant on Civil and Political Rights and by Jamaica from the Optional Protocol thereto went counter to the Vienna Declaration and Programme of Action and undermined the entire international machinery developed for the promotion and protection of human rights. The recently adopted General Comment No. 26 (6) of the Human Rights Committee on issues relating to the continuity of obligations to the Covenant constituted a basis for further actions by the appropriate bodies.

17. In the same context, Mr. O'Flaherty suggested that the High Commissioner for Human Rights should use her good offices and resources for technical cooperation to assist States in addressing their concerns by means other than denunciation. He also felt that it would be fruitful to address the relationship between the treaty system and non-State entities (NSEs), particularly in regard to the role and responsibility that the treaty bodies could perhaps assume in appropriate circumstances. The experience with rebel groups and with the parties in Bosnia and Herzegovina to the Dayton Agreement who had undertaken a commitment to respect the substantive provisions of human rights instruments could have held some useful lessons in the foregoing regard, he thought.

18. Mr. O'Flaherty also drew attention to the ratification-related concerns arising with regard to the individual petition procedures. States sometimes attested an unwillingness to embrace the Optional Protocol to the International Covenant on Civil and Political Rights or other United Nations complaints procedures because of their participation in the mechanisms under the European Convention on Human Rights. Some States which ratified the Optional Protocol sometimes argued that acceptance of the complaints procedures under the International Convention on the Elimination of All Forms of Racial Discrimination and under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment were also rendered

superfluous for the same reason. On such matters, it might be worthwhile to consider the deployment of technical cooperation resources aimed at disabusing States of such misplaced ideas.

Comments by the Secretary-General

19. The Secretary-General reaffirms his commitment to promote universal ratification of the international human rights treaties and welcomes the recommendations of the independent expert toward this end. The United Nations departments and specialized agencies which are cooperating with the Office of the High Commissioner for Human Rights on activities relating to the fiftieth anniversary of the Universal Declaration of Human Rights and the five-year review of the Vienna Declaration and Programme of Action are being consulted regarding their contribution to the promotion of universal ratification. Information on these initiatives will be included in the report on the five-year Review to be submitted to the General Assembly at its fifty-third session. In marking the start of the fiftieth anniversary year, which the High Commissioner referred to in her report to the General Assembly as "Human Rights Year", the Secretary-General and the High Commissioner for Human Rights addressed appeals to all Governments, suggesting that they consider ratifying the core treaties to which they were not already a party.

B. The problem of significantly overdue reports

Recommendations of the independent expert

20. The independent expert pointed out that non-reporting had reached chronic proportions. He suggested that, in addition to considering reforms to the overall system, a new specially tailored project for the provision of advisory services should be designed and implemented. In responding to cases of persistent delinquency, all treaty bodies should be urged to adopt procedures which would eventually lead to the examination of country situations even in the absence of a report. Such an approach should reflect thorough research and lead to detailed, accurate and comprehensive concluding observations (ibid., paras. 37-45, 47, 112)

Government comments

21. The Government of Canada expressed support for the adoption by treaty bodies of appropriate procedures which would allow them to consider the situation of persistently delinquent States parties in the absence of a report. It would be inequitable and contrary to the basic purpose of the conventions if States parties could evade scrutiny from the treaty bodies by neglecting to fulfil their reporting obligations, while States that submit reports are held accountable for implementation of their commitments.

22. The Government of Finland stressed that all States parties should be on an equal footing regarding regular monitoring. Finland supports the development of methods for treaty bodies to examine the situation in a State party even when it fails to fulfil its reporting obligation.

23. The Government of Israel agreed that non-submission of reports was a result of either technical difficulties or lack of political will, neither of

which would be overcome by unilateral steps or repeated reminders on the part of treaty bodies. A more constructive way to address the problem would be to make the reporting system less daunting to States.

24. In Israel's view there was no established legal basis for the examination of a situation in a State in the absence of a report. While acknowledging that consideration of a situation in the absence of a report could serve as an incentive in cases where States had the means but chose not to report, the current policy did not distinguish between cases where the problem was lack of means rather than will. In addition, Israel believed that to base an entire examination on non-governmental sources in the absence of a government report would be contrary to the letter, purposes and principles of the treaties.

25. Israel also noted that while there was a significant delay in the submission of State party reports, treaty bodies maintained a rigid schedule in demanding future reports, without taking into account the date of examination of previous reports. This observation was especially relevant where special reports were involved which often covered the same matters as regular reports. Therefore, all reports submitted, whether regular or special, should be taken into account when calculating due dates.

Comments by United Nations agencies and bodies

26. UNICEF indicated that, through its presence in 161 countries and in cooperation with its 38 National Committees, it regularly monitored the submission of State party reports under the Convention on the Rights of the Child. It also encouraged the timely submission of reports and provided Governments with technical assistance in the preparation of reports. UNICEF supported the monitoring role of the Committee on the Rights of the Child and participated in meetings where States parties' reports were considered by the Committee.

Comments by non-governmental organizations

27. North-South XXI welcomed the practice developed by the Human Rights Committee since 1994 to identify those States parties that do not fulfil their reporting obligations despite numerous reminders, but the Committee should take care not to penalize the States parties that respected their obligations and de facto reward those States parties that did not. It was logical that the conventional organs of the United Nations should, in the absence of a State report, proceed to examine through all possible means the situation in that State. Non-governmental organizations could participate in such action.

Comments by interested persons

28. Mr. Zwaak and Ms. Boerefijn considered it of great importance that some sort of sanction be developed for States parties which do not comply with their reporting obligations. So-called "blacklists" in the treaty bodies' annual reports did not seem to persuade States to submit overdue reports. Mr. Zwaak and Ms. Boerefijn agreed with the independent expert that the treaty bodies had no other option but to consider the "situation" in a State in the

absence of a report from delinquent States parties. This should be the ultimate remedy and particularly wide distribution of the concluding comments had to be ensured in such instances.

Comments by the Secretary-General

29. The Secretary-General notes with deep concern the serious situation with respect to overdue reports. The existence of a large number of States that do not comply with their reporting obligations detracts significantly from the capacity of the treaty system to be of service to the international community.

30. Participants in programmes on the preparation of State reports to treaty bodies have consistently expressed satisfaction at the skills and insights gained during those training courses. The Secretary-General will continue those programmes and will continue to urge that countries sending participants provide the necessary opportunities for them to train their colleagues when returning from such courses.

31. The Secretary-General calls upon all States parties to fulfil their reporting obligations, which are the cornerstone of the international human rights treaty system. He encourages treaty bodies to continue to undertake creative initiatives to address the problems posed in respect of States parties whose reports are chronically late or who fail to submit reports at all.

C. Dealing with the timely submission of reports

Recommendations of the independent expert

32. The independent expert noted that the present reporting system functioned only because of the large-scale delinquency of States which either did not report at all, or reported long after the due date. If many were to report, significant existing backlogs would be exacerbated, and major reforms would be needed even more urgently (ibid., paras. 48-52).

Government comments

33. The Government of Finland noted that, according to the statistics presented in the final report of the independent expert, the system was faltering seriously. When a State report was scheduled for consideration one to three years after its submission, much of its contents were rendered obsolete. Another consequence of this situation was that those three treaty bodies which at present examined individual complaints had difficulty finding enough time to deal with complaints. This unfortunate situation compromised the entire human rights monitoring system. Finland supported the proposals to widen complaints procedures to other conventions although they would, as a result, increase the existing workload.

34. The Government of the Republic of Korea considered that, in view of the chronic delays between the submission and examination of reports, the current report-reviewing mechanism needed to be reformed. The Government supported the second option proposed by the independent expert in paragraph 86 of his final report, whereby the treaty bodies should undertake far-reaching reforms

of their existing procedures. Extensive authority should be delegated to the Secretariat to undertake a preliminary review of State reports. The Secretariat staff would be complemented by interns and junior professional officers (JPOs). The results of that review by the Secretariat should be reported to small working groups composed of individual committee members who would offer their assessments. The conclusions reached at the small groups should then be endorsed by the Committee in plenary.

D. Problems in relation to documentation

Recommendations of the independent expert

35. The independent expert suggested that the proposed limits on documentation were unworkable within the context of existing procedures. He expressed the view that the issue needed to be dealt with in a far more transparent manner than has so far been the case and full justification for any cuts needed to be provided. The Secretariat should draw up a detailed options paper to enable the committees to consider measured and innovative responses (ibid., paras. 53-54, 114).

36. In addition, the independent expert drew attention to the large volume of documentation furnished to treaty bodies that was not recorded officially and called for appropriate measures to be devised by the Secretariat. He considered the preparation of summary records to be an indispensable element in the system and recommended that their timely preparation should be accorded priority. The continued production of bound and edited volumes of Official Records of the Human Rights Committee (previously known as Yearbooks) was difficult to justify at a time of financial stringency. Priority should be accorded to transferring the existing data onto electronic databases and ensuring the timely publication, including in electronic form, of all summary records as soon as they are available (ibid., paras. 55, 58-59, 115).

Government comments

37. The Government of Australia welcomed the establishment of the Office of the High Commissioner for Human Rights homepage on the World Wide Web and encouraged wide use of electronic forms of publication and dissemination of documentation, although it acknowledged that not all States had ready access to the Internet. The Australian Government also encouraged every effort being made to ensure that human rights information was more widely accessible and better targeted, particularly at the grass-roots level.

38. The Government of Canada recognized the importance of having adequate documentation available during the review of reports by States parties, and the difficulties that resulted when limits were imposed on the length of those reports. It also recognized the need to respect financial constraints and to ensure that committee members were not burdened with a greater volume of documentation than they could reasonably be expected to assimilate. It therefore supported a more focused approach to reporting as a way to reconcile these different priorities. With respect to summary records, Canada considered them to be an important tool in following up on reports by States parties and encouraged their prompt publication in electronic form.

39. The Government of Finland affirmed that access to information from various sources and cooperation with other United Nations bodies must be guaranteed.

40. The Government of Israel agreed that a 50-page limit on a report was impracticable, in view of the wide range of issues which reports had to address. Moreover, it would give rise to situations where a State was required to limit the information it submitted and was later reprimanded for not having reported on certain issues. A solution to the difficulty of processing extensive reports should not compromise the integrity of the report.

Comments by United Nations agencies and bodies

41. UNICEF reported that it regularly disseminated worldwide a wide range of publications and information materials on the Convention on the Rights of the Child in numerous languages. It also supported efforts to disseminate copies of States parties' reports and concluding observations in the countries concerned.

Comments by non-governmental organizations

42. The NGO Group for the Convention on the Rights of the Child expressed its view that, in the short term, better information-sharing among treaty bodies could enhance the reporting system. Although the treaty body database had helped to ensure the sharing of official United Nations information, there was a weak system within the United Nations and none within the NGO community for ensuring that NGO information that already existed was transmitted to other treaty bodies that may have the same State party under consideration.

Comments by interested persons

43. Mr. O'Flaherty drew attention to the important role played by the practice of tape-recording committee meetings. He made reference to instances where the tapes were transcribed and used effectively as lobbying tools by national non-governmental organizations subsequent to the examination by a treaty body of that State's report. He suggested that the practice of tape-recording should continue and that access to the recordings should be facilitated.

Comments by the Secretary-General

44. The financial crisis of the United Nations has also affected the production of documentation, which has affected the functioning of treaty bodies. The delays in the processing of the reports, summary records and other documents of treaty bodies are due in large part to the overload of the Languages Service, the capacities of which have been drastically reduced. Late submission and excessive volume of documents have hampered the normal processing of documents. There is an inherent difficulty in forecasting the volume of State reports to be processed, given the difficulty in knowing when States will submit their reports and how long they will be. Since 1995, the

number of pages of country reports submitted to the five treaty bodies serviced in Geneva has increased by over 30 per cent, from 4,512 pages to 5,926 pages in 1997.

45. While observing the rules established by the General Assembly regulating control and limitation of documentation, treaty bodies must be able to fulfil their monitoring function. Requesting focused rather than comprehensive reports and limiting agenda items to be covered by summary records may lead to a reduction in the volume of documentation. As soon as they are issued, all official documents are regularly loaded onto the treaty body database, which is linked to the United Nations human rights Website.

E. Development and use of electronic databases

Recommendations of the independent expert

46. The independent expert considered the new homepage of the Office of the High Commissioner for Human Rights to be an unduly delayed but very welcome development. He recommended that it be maintained and expanded and that a strategy to widen access be devised. Future development of the database should reflect a more systematic, consultative and transparent process than had hitherto been the case. An expert seminar should be convened for that purpose and an external advisory group appointed. UNHCR and the ILO should consider making their valuable databases available on the Web to the human rights community and others (ibid., paras. 60-66, 116).

Comments by United Nations agencies and bodies

47. UNICEF welcomed the information retrieval and database system developed for the Convention on the Rights of the Child and favoured its expansion to include other human rights treaties. UNICEF supported and participated in those initiatives in cooperation with the Office of the High Commissioner for Human Rights.

48. UNHCR noted the concerns of the independent expert about the time lag in relation to the availability of country-specific and other data generated by UNHCR on the Internet. UNHCR affirmed its policy of placing priority on the collection and production of legal and country specific information for its CD-Rom ("RefWorld"), which is updated every six months. This strategy was chosen in view of the fact that the primary audience of the CD-Rom, namely the field offices of UNHCR, did not enjoy access or had such intermitted access to the Internet that it could not be relied on as a research tool. The "RefWorld" CD-Rom has been purchased by many Governments, judiciaries, refugee advocates, libraries and research centres throughout the world. In addition, some treaty body experts who had expressed an interest in using the CD-Rom had been provided with their own copies; others indicated that they had access through a library or university. UNHCR thus believed that the information on "RefWorld" was readily available to those who needed it and that the cost was not a prohibiting factor in its use by the treaty body system.

Comments by the Secretary-General

49. The Secretary-General welcomes the positive responses received about the United Nations human rights Website, which was designed to be one of the most comprehensive sources of public information on the United Nations human rights programme and features a full-text database on treaty body information capable of easy retrieval. Since its inauguration on 10 December 1996, the Website has been visited, on average, 3,000 times per week and treaty body experts have been given the opportunity to be briefed on the use of the Website and database. Their comments or suggestions for improvements will continue to be welcome.

F. Public information

Recommendations of the independent expert

50. The independent expert considered the public information materials relating to the work of the treaty bodies to be highly inadequate. He recommended that the treaty bodies be given a direct input into future decision-making in this regard. He further recommended that a public information budget be made available to support grass-roots initiatives designed to disseminate information about the treaty bodies in culturally appropriate and more popular formats and media. Partnerships with academic and other external institutions should be explored in order to enhance the publications programme. An external advisory group should be asked to review the human rights-related publications programme and make recommendations. The Secretary-General should report on the actual availability of treaty body-related materials at United Nations information centres (ibid., paras. 66-71, 117).

Government comments

51. The Government of Canada suggested that a public information campaign to promote awareness of the treaty bodies should be considered as an element of, or as follow-up to the fiftieth anniversary of the Universal Declaration of Human Rights.

Comments by non-governmental organizations

52. North-South XXI expressed interest in the recommendation to entrust to academic and other external institutions the preparation of certain publications, with a reservation that Governments should not be able to exercise influence over the process. As it may be difficult to select truly "independent" universities, the best alternative might be to entrust the same functions to various institutions in countries in the South as well as the North that came from different cultural environments, as done in the selection of judges for the International Court of Justice.

Comments by interested persons

53. Mr. Zwaak and Ms. Boerefijn agreed that the extent to which publications could be entrusted to other institutions needed to be explored. Some institutions, including the Netherlands Institute of Human Rights (SIM), had

already taken initiatives to make relevant material more easily accessible. Without the support of the Office of the High Commissioner for Human Rights, the continuity of such projects could not be ensured. Although it might be necessary to explore commercial approaches to this question, this should never be to the detriment of the widest possible distribution of materials.

54. Mr. O'Flaherty expressed doubt as to whether primacy of importance should be given to involvement by treaty body members in development of public information campaigns. That was not their area of expertise. Instead, he suggested an approach whereby the work would be undertaken by carefully recruited specialists. He further suggested that the Office of the High Commissioner for Human Rights should develop training and educational materials to be disseminated on the Internet. An excellent model in that regard was provided by the Council of Europe, including most recently the Website of the European Commission against Racism and Intolerance.

Comments by the Secretary-General

55. The Secretary-General notes the recommendation that the treaty bodies be given a direct input into future decision-making about public information materials relating to their work. In this regard, he draws attention to the close cooperation already existing between the human rights-related publications programme and the treaty bodies. All publications relating to the work of treaty bodies are developed in consultation with them and relevant sections are often drafted by their members, including the Manual on Human Rights Reporting and the Fact Sheet series on the treaty bodies.

56. The Secretary-General notes the suggestion that a public information budget be made available to support grass-roots initiatives designed to disseminate information about the treaty bodies in culturally appropriate and more popular formats and media and agrees that the challenge is in the implementation at the grass-roots level. Additional effort has been made in recent years to engage the attention of United Nations Information Centres to promote the work of the treaty bodies. This includes, when the report of a State party comes before a treaty body, ensuring that the relevant UNIC receives a copy of the report, following up with press releases on specific meetings of the relevant treaty body and transmitting to the UNIC the concluding observations adopted on the report. The success of this strategy has depended on a number of factors. The first is the capacity of the UNIC to respond to the additional workload and the receptiveness of the local media to such information. A second factor is the relevance and interest of the proceedings in the treaty body. Another is the quality of the concluding observations. While the results have been mixed, in a number of instances, UNICs have been able to generate considerable local interest in the proceedings of treaty bodies relating to the countries in which they are situated.

57. The Secretary-General encourages the treaty bodies to reflect on ways to present their findings that may be easier to comprehend by a non-specialist public. The establishment of a public information budget should be undertaken together with such efforts by the treaty bodies.

G. Advisory services

Recommendations of the independent expert

58. The independent expert considered that the advisory services programme had not provided sufficient support for surveys required prior to ratification of a human rights treaty or for the preparation of reports by States in need of assistance. Regional and subregional training courses in relation to reporting were unlikely to produce results commensurate with their cost. He recommended that a specially designed programme be devised to address the needs in this area and that it be accorded priority (ibid., paras. 72-77, 118).

Comments by United Nations agencies and bodies

59. The Convention on the Rights of the Child assigned UNICEF a legal obligation in the promotion and protection of the rights of children. Article 45 made specific reference to UNICEF's responsibility in: participating in the consideration of States parties' reports; providing expert advice on the implementation of the Convention; submitting reports to the Committee on the Rights of the Child on the implementation of the Convention; and responding to requests by the Committee for technical advice or assistance to a State party. The reporting process provided UNICEF with a special opportunity to enhance the efforts made at the national and local levels to implement the Convention. UNICEF fostered a reporting process that was participatory and transparent and that promoted the involvement of all sectors of society in the rights of the child. It was an important initiative to enhance the capacity-building of government officials, non-governmental organizations and UNICEF staff.

60. UNICEF organized a number of national and regional workshops to familiarize the above-mentioned personnel on the reporting process related to the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. The programmes included information about the human rights treaties and treaty bodies. In 1997, workshops were held in, inter alia, Swaziland, the United Republic of Tanzania, South Africa, Cote d'Ivoire and Turkey.

Comments by the Secretary-General

61. A concentrated effort has been made in recent years to strengthen national capacities in the area of national reporting to treaty bodies. Since 1993, the Office of the High Commissioner for Human Rights has been requested to train approximately 134 officials from more than 81 Member States. The suggestions offered by the independent expert provide a welcome opportunity to reflect on lessons learned from this experience.

62. One of the most important advances made recently is the development of a complete treaty-system reporting package, comprising the Manual on Human Rights Reporting, a Trainers' Guide on Human Rights Reporting and a Pocket Guide on the Basic Human Rights Instruments. They were developed in cooperation with the United Nations Staff College Project in Turin and are now available to all Member States.

63. Training activities are organized regularly at the regional and subregional levels, as well as at the national level. With respect to the former, the training approach and methodology are focused on "training the trainers" to enable them to design and implement training programmes at the national level. This approach emphasizes national capacity-building instead of direct assistance and takes into account effective follow-up at the national level by the participants. The intensive training of trainers has been designed to enable reporting officers to conduct training activities at the national level after having followed the course, drawing on the experience of practitioners from the field. Participants benefit from preparing a plan of action before returning to their countries, which enables them to reflect on the organization of training activities at the national level to ensure a "multiplier effect". What remains to be done, to guarantee the multiplier effect, rests at the national level with the concerned Governments. Many of the constructive comments made by the participants during the training sessions highlighted a need for follow-up at the national level by the trainer of the Office. In view of current financial constraints, post-training requirements must be addressed through extrabudgetary resources.

64. "Cooperative training" with the United Nations Staff College Project in Turin is an on-going practice; since 1994, three training programmes have been conducted with the support of UNSCP and, in addition, training activities were also held in Addis Ababa in July 1997 and Antananarivo in December 1997, financed with resources from the United Nations Staff College Project.

65. The number of State party reports that have been submitted by States since participating in a training programme on reporting might be a fair indication of the effectiveness of these programmes. In 1994, representatives from 19 countries were trained by the Office of the High Commissioner for Human Rights on the preparation of their State reports. As of December 1997, 12 of those countries have submitted a total of 27 reports. The 1995 training programme was attended by representatives from 28 countries, 1/ 18 of which subsequently submitted a total of 38 reports due under the treaties. In 1996, representatives from 13 countries 2/ attended the training programme, of which 4 countries submitted 5 reports. In 1997, representatives from 26 more countries 3/ participated in one of the training sessions organized by the Office of the High Commissioner for Human Rights or by the United Nations Staff College Project.

66. At the national level, several training courses have been organized in countries where there is an acute lack of capacity in the field of reporting. In the experience of the Office of the High Commissioner for Human Rights, national training programmes require post-training follow-up, as do the regional or subregional programmes, which also involves resources. If resources were plentiful, national training programmes attended by a wide range of national officers would undoubtedly be more effective than regional programmes attended by only one or two national officers from each participating State. Concentrated assistance, however, could not satisfy the needs of the same number of countries with the same available resources as does the present regional and subregional approach.

67. The idea of regional advisers based on the ILO model, as cited in paragraph 75 of the report of the independent expert, is worth exploring.

UNDP has also established programmes involving regional advisers to provide continuous in situ substantive support in UNDP priority areas of focus. The main issue will again be the availability of resources; at least four posts would have to be created for this function. States may wish to discuss the modalities for implementing this recommendation.

68. It may be noted that in southern Africa, a joint UNDP-OHCHR project will be implemented in 1998 which foresees the establishment of a regional adviser position. A human rights regional programme adviser will work closely with Governments and United Nations Resident Coordinators in the subregion to provide on-site support, advice and assistance on human rights matters, including reporting under the treaty bodies.

H. Special reports

Recommendations of the independent expert

69. The independent expert recommended that the effectiveness of "special reports" and "urgent procedures" should be carefully evaluated by the committees concerned. At present, the value they added seemed low. In general, the division of labour between the treaty bodies and special mechanisms should be maintained (ibid., paras. 78-79, 119).

Government comments

70. While recognizing that the treaty bodies should not attempt to duplicate the work of the United Nations human rights special procedures, the Government of Canada continued to believe that there was a role for them in giving expert attention, on a timely basis, to emerging issues of concern. By virtue of their regular review of the performance of States parties, the treaty bodies were in a position to follow trends which might foreshadow a deterioration in a given human rights situation. They were also well placed to follow up on human rights concerns identified by United Nations special procedures. Canada attached particular importance to encouraging United Nations agencies to make greater use of reports by treaty bodies.

71. The Government of Cyprus recognized the difficulties for the independent expert to consider in any detail the relationship between the human rights treaty system and the system of special rapporteurs, representatives and experts of the Commission on Human Rights. Nevertheless, it noted that if the "division of labour" between the two systems in relation to urgent appeals is to be maintained, the Commission on Human Rights should make procedural provision for thorough consideration of the reports received from its special rapporteurs, etc. It should also consider procedures as to how best to channel reports reflecting urgent appeals.

72. Israel was of the view that there should be a clear distinction between the functions of treaty bodies and special reports. First, the treaty bodies could not provide an efficient framework to deal with pressing emergency situations. Second, special reports would be examined at the expense of regular reports from States. Finally, the vague criteria for urgent procedures opened the possibility of manipulation by treaty bodies, who could

resort to them whenever they were dissatisfied with a State. Treaty bodies should justify in writing and in detail why the urgent procedures mechanism was resorted to.

Comments by interested persons

73. Mr. Zwaak and Ms. Boerefijn agreed with the independent expert that an examination should be made into the results of the treaty bodies' practice of requesting special reports over the past five years. They observed that, for outsiders, it was entirely unclear what were the criteria for requesting a special report. It did not become clear, for example, whether the proclamation of a state of emergency, or a de facto existence of a state of emergency played any role. Many special rapporteurs of the Commission on Human Rights were concerned with countries which were States parties to, inter alia, the International Covenant on Civil and Political Rights; it was not clear whether the existence of such mandates played any role. It should be examined what additional value emanated from a special report and the consideration thereof. States parties might regard the opportunity to submit special reports as the only way for them to present their side of the story before an international forum. Their cooperation could also be attributed to the fact that the treaty bodies, generally speaking, were believed to be unpoliticized and consequently States might expect a "fair hearing".

74. Mr. O'Flaherty expressed disagreement with regard to the role of the treaty bodies regarding complex emergency situations. He pointed out that the final report of the independent expert did not contain verifiable indicators in support of the conclusion that the involvement of treaty bodies was only marginally useful, nor did it distinguish between the report-based and other special procedures. References to the role of Charter-based mechanisms should, in a context where there was urgent need to develop an effective mutuality between them and treaty bodies, focus on means of collaboration and cooperation rather than on "division of labour". He further noted that a remarkable role had been accorded to the treaty bodies in the Dayton Agreement (annex 6, article XIII; see also the Constitution of the Federation of Bosnia and Herzegovina, contained in the Washington Agreement of March 1994). The invitation contained therein for ongoing involvement by treaty bodies in the implementation of the peace agreement was an exceptional opportunity to advance committee practice.

I. Consolidation of reports and treaty bodies

Recommendations of the independent expert

75. The independent expert contended that in light of current trends the existing reporting system was unsustainable. He presented four options that were available to States: (a) to dismiss the concern as alarmist and take no action; (b) to urge the treaty bodies to undertake far-reaching reforms and adapt to cope with existing and new demands from within existing resources; (c) to provide greatly enhanced budgetary resources to sustain the status quo; (d) to combine some elements of (b) and (c) with the adoption of some far-reaching reforms. The latter could include: the preparation of "consolidated reports"; elimination of comprehensive periodic reports in their present form and replacement by reporting guidelines tailored to each State's

individual situation; and a consolidation (reduction) of the number of treaty bodies. If the political will existed in relation to the last, a small expert group should be convened to examine modalities (ibid., paras. 81-97, 120).

Government comments

76. The Government of Australia supported reforms to the reporting procedures with the object of streamlining the reporting obligations on States parties, the production of shorter and more focused reports, and encouraging the greater coordination and sharing of information between the treaty bodies. Australia saw great potential for the streamlining of reports. Of the two options presented by the independent expert - consolidation of reports under all the treaties in one report or elimination of the requirement to produce comprehensive periodic reports - Australia endorsed the second option. While the initial report should be comprehensive, subsequent periodic reports should focus on a limited range of issues identified well in advance and tailored to the situation of each State party.

77. An alternative approach would be to draft reports which focused on particular issues. Those issues would be identified by reference to the comments and concluding observations of a committee on an earlier report. A State party could also provide information to the Committee on significant developments which had occurred in the reporting period. Cross-referencing to relevant material contained in other periodic reports would avoid unnecessary duplication.

78. The Australian Government believed that further careful consideration was needed as to the suggestion to consolidate the six treaty bodies into one. Priority should be given to those reforms to the treaty system that could be achieved in the short to medium term.

79. The Government of Canada expressed caution as to any suggestion that the treaty bodies be consolidated. The fact that not all States had ratified the same range of conventions was merely the most obvious in a wide range of practical difficulties that would afflict this scheme. The risk that particular issues, such as children's or women's rights, would not receive adequate attention in a comprehensive report would also pose difficulties. More importantly, Canada was not confident that amalgamation would significantly lower the reporting burden on States parties. Canada considered that consolidated reports, providing input to more than one treaty body in a single submission, would pose practical difficulties, although not insurmountable ones. While interested States should have the option of pursuing this approach if they judged it to be appropriate in their specific case, Canada expressed doubt that consolidated reports would produce the dramatic improvement in efficiency necessary to restore the treaty body system to good health.

80. In Canada's view, the single most important step that could be taken to improve the functioning of the United Nations human rights treaty system would be a move away from submission of comprehensive reports and towards reporting focused on specific issues of concern. Although this would not be an advisable approach for initial reports by States parties, for subsequent periodic reports it would radically enhance the efficiency and effectiveness

of the reporting system. Managed properly, issue-specific reporting would accomplish a number of goals: it would reduce the amount of work required to prepare reports, reduce duplication between reports, and identify with more precision points on which follow-up is required by States parties. Canada believed that each individual treaty body should consider how best to implement such a system.

81. The factors which Canada considered the essential elements of issue-specific reporting were as follows: (a) the issues which a State is asked to address in its report should be selected using all available sources of information, but special attention should be given to previous recommendations made by the treaty body; (b) the list of issues should be focused and should not attempt to cover more than a limited number of priority themes or areas; (c) the State party should be advised what issues will be raised well in advance of the proposed dates of examination to allow adequate time to prepare a written report; and (d) the State party would have a responsibility to provide its report to the treaty body a specified minimum length of time before consideration by the Committee, to allow Committee members sufficient preparation time.

82. Canada encouraged each treaty body to develop a flexible approach or policy for issue-specific reporting, and to make States parties aware of their decisions in this regard. Even in the absence of such a policy, Canada was of the view that issue-specific reporting could proceed immediately in any case in which the treaty body and State party concerned were in agreement on the procedure to be followed. In cases where no report had been submitted in recent years, treaty bodies might, as in the case of initial reports, prefer submission of a comprehensive report.

83. The Government of Cyprus expressed support for the recommendation in paragraph 120 that a small expert group be convened to examine modalities to consolidate the treaty bodies. It also supported the view that there could be consolidated reports even before other measures were taken. Such reports would reduce the heavy burden on small States of preparing six reports, which in many respects overlapped. If, owing to differences in the dates on which reports to the various treaty bodies were due, the consolidated report was submitted more than 18 months before a report to the relevant treaty body was due, States should be encouraged to submit a brief updating report on matters specifically related to the competence of that treaty body.

84. The Government of Finland agreed with the assessment of the independent expert that the present system was unsustainable and that significant reforms would be required. A significant number of States reports were overdue, partly because many States lacked adequate resources. The preparation of reports and their consideration by the treaty bodies involved a great deal of work. The final report of the independent expert proposed several measures which could address the problem. Finland considered especially valuable, inter alia, an easing of the reporting requirements. A more tailored and flexible approach to reporting, including the replacement of extensive reports by reports on a limited range of issues possibly based on the concluding observations on the previous report, could be an option.

85. The Government of Israel supported consolidation of reports prepared for the different treaty bodies. A single comprehensive report would be more coherent than an artificial separation into different reports. It noted that a reform in the contents of periodic reports had already been implemented by the Committee on the Elimination of Racial Discrimination, pursuant to which one in two reports may be limited to an update. Broadening this approach could help alleviate the current situation, especially if clear guidance were given as regards the difference in scope between comprehensive reports and updates. Israel welcomed the proposal of the independent expert to convene a small expert group to examine modalities for the consolidation of the treaty bodies.

86. The Government of the Netherlands indicated that national reports tended to reveal only that information which the State concerned was willing to divulge, the underlying principle being that the States themselves provided information about their measures to implement human rights standards. This often led to a paradoxical situation in which States in which little or no human rights violations occurred submitted reports critical of those problems that did exist, while States in which human rights violations were more prevalent were less inclined to submit comprehensive reports. The Netherlands suggested, as a way to address this issue, the provision to States of questionnaires, containing specific questions tailored to the State's situation. Specific reports could be submitted on the basis of these questions. States parties might therefore begin to relate treaty obligations to national practice, which ultimately might lead to an improvement in the human rights situation.

87. The Government of the Republic of Korea observed that the proliferation of requests for reports under a growing number of human rights instruments had placed increasingly heavy burdens on States parties in general and on developing countries in particular. The Republic of Korea believed that such burdens had been magnified by duplication and a lack of coordination among the different procedures and mechanisms of various treaty bodies. The Republic of Korea agreed that the existing reporting system was unsustainable, owing to the large number of significantly overdue reports and the serious delays between submission and examination of reports.

88. In view of these significant problems, the Republic of Korea considered it inevitable that the administrative burdens associated with State reporting be alleviated, both on States parties and on the treaty bodies. The Republic of Korea supported reforms that would streamline the process and observed that the single consolidated report proposed by the independent expert could be a practical solution. As the reports due under the respective human rights treaty bodies often required similar elements, the Republic of Korea was of the view that the reports could be integrated into one, with a five-year reporting cycle, thus eliminating duplication of administrative demands on States parties.

89. The Republic of Korea suggested that the treaty bodies, in cooperation with the Office of the High Commissioner for Human Rights, prepare a set of guidelines for the preparation of a consolidated report. The report could be categorized into two parts: the first part describing universally common

subjects applicable to all the States parties, the second dealing with specific items specially tailored to the different States parties.

Comments by United Nations agencies and bodies

90. With reference to the proposal for the submission of a single consolidated report by each State party, UNICEF maintained that there was a need for specific information on various areas, in particular children. The submission of a single report ran the risk of diluting important issues and neglecting both their consideration and the formulation of specific recommendations.

Comments by non-governmental organizations

91. The NGO Group for the Convention on the Rights of the Child presented its views on the problems facing the reporting system. The backlog of reports was two years long for the Convention on the Rights of the Child and other treaty bodies were faced with similar delays. By the time of the examination of a State report, not only was it out of date but NGOs were also likely to produce information that became out of date and the momentum of the reporting process was lost. Radical solutions were necessary to deal with these problems and the consolidation of the treaty bodies or consolidation of the reports due to them appeared to be the only viable long-term option. The overlaps in the system were obvious and created a burden on both the States parties and those contributing to the monitoring of the implementation of the treaties.

92. The Inter-Church Committee for Refugees addressed the recommendation for a single unified professional salaried treaty monitoring body. In view of the problems of "normative consistency" and relationships with regional human rights mechanisms, as discussed in the interim report of the independent expert, the Inter-Church Committee for Refugees saw value in a single complaint mechanism. This would seem possible and desirable in the short term. It also favoured the establishment of a Court of Human Rights with non-threatening "advisory" jurisdiction. Such jurisdiction had proven useful for the Inter-American Court of Human Rights.

93. The Inter-Church Committee for Refugees expressed doubt that the treaties would be more effectively implemented by collapsing the various examinations of State reports by treaty bodies into one. While recognizing the problems of meeting time for experts who essentially served on a volunteer basis, it did not appear that alternative ways of working had been exhausted. It was difficult to envisage the distinctive perspectives of women, children, prevention of torture, etc. without specialist treaty bodies.

94. The Inter-Church Committee for Refugees welcomed the proposal for a consolidated State report. It did not view this recommendation as inconsistent with the suggestion of preserving distinct examination processes from the perspectives mentioned above. A general report could potentially provide a strong basis for examination by the various treaty bodies on their respective concerns.

Comments by interested persons

95. Mr. Zwaak and Ms. Boerefijn noted that, although the reports of State parties constituted the major source of their dialogue with treaty bodies, additional information from official and unofficial sources were currently being used by all the treaty bodies. The State reports therefore no longer constituted the only source of information and in due time may not even be the most important source. Moreover, many reports rarely provided information beyond legislative measures. Information on practice was hardly ever provided in the reports, although it had on occasion been more forthcoming during the dialogue with representatives of State parties.

96. Mr. Zwaak and Ms. Boerefijn suggested that it might be worthwhile to explore whether the major efforts of States parties should be shifted. States could prepare one report composed of several sections which dealt with the various treaties to which it was a party. This could only work if Governments sent well-briefed delegations to the committees when their reports were being discussed. Further study would be required into adjusting the guidelines for reporting in order to ensure that the information which needed to be submitted under the specialized treaties would not be lost, i.e. the consolidated report should not be merely a combination of a report under the two Covenants but should take fully into account all aspects of the other relevant treaties. An important side-effect of consolidated reports might be that the interdependence of civil and political rights and economic, social and cultural rights is strengthened.

97. Mr. Craig Scott commented that the recommendation to study modalities for consolidation, including a possible reduction in the number of human rights treaty bodies, may not, upon reflection and in the context of evolving financial realities, prove desirable. In particular, consolidation of the treaty bodies could jeopardize the principle of interactive diversity of expertise, of experience and of normative focus - the maintenance of which was central to the functioning of collective decision-making bodies. Mr. Scott also proposed the establishment of an international candidate identification process that could be set in motion prior to the election of candidates at meetings of States parties.

Comments by the Secretary-General

98. While recognizing the need to streamline the reporting process and supporting the discussion on this critical issue, the Secretary-General draws attention to the need for further reflection by the treaty bodies as to the objective of focused reports and how the main issues would be selected with respect to each State party. The treaty bodies are invited to give careful thought as to the objective of focused reports and to propose concrete ways in which the issues would be selected.

J. Amending the treaties

Recommendations of the independent expert

99. The independent expert highlighted the need to make procedural provisions of human rights treaties more susceptible to amendment. His recommendations were as follows (ibid., paras. 101, 121):

(a) All future human rights treaties should provide for a simplified process to be followed in order to amend the relevant procedural provisions. While the specific endorsement of this proposal by the Commission on Human Rights could not be binding in the context of any future negotiations it would constitute a clear policy guideline and help to facilitate the adoption of such flexibility in the future;

(b) A report should be requested from the Legal Counsel which would explore the feasibility of devising more innovative approaches in dealing with existing and future amendments to the human rights treaties;

(c) The General Assembly should request the Meetings of the States Parties to the relevant treaties to discuss means by which the States concerned might be encouraged to attach a higher priority to ratification of the amendments already approved;

(d) Consideration should be given immediately to amending the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in line with the recommendation made below;

(e) In view of the agreement of the Meeting of States Parties and of the General Assembly in 1992 to amend article 8, paragraph 6, of the International Convention on the Elimination of All Forms of Racial Discrimination to eliminate the responsibility of the States parties for the expenses of the Committee members, action should now be taken to write off the continuing backlog of contributions owed for that purpose. Agreement should be sought to cover the outstanding amount from the regular budget and close the file. For legal and policy reasons, it should be indicated that no precedent of broader application is thereby created.

100. Existing arrangements for cooperation with the specialized agencies and other bodies had been improved in some respects but remained very inadequate. The High Commissioner should convene a high-level meeting to explore better means of cooperation with the treaty bodies (ibid., paras. 108, 121).

Government comments

101. The Government of Australia agreed that there should be steps taken to simplify the procedure for amending technical or procedural provisions in respect of future and current treaties. It endorsed the recommendation that an option be sought from the Legal Counsel on more innovative approaches to dealing with existing and future amendments to the technical or procedural provisions of the human rights treaties.

102. The Government of Canada agreed that the process of amending the procedural provisions of human rights treaties should be simplified and that options in this regard should be considered.

Comments by United Nations agencies and bodies

103. UNICEF expressed support for the proposed amendment to the Convention on the Rights of the Child that would expand the membership of the Committee on the Rights of the Child from 10 to 18 experts.

K. The language question

Recommendations of the independent expert

104. The independent expert considered that the importance of maintaining linguistic diversity in the treaty bodies was, for many reasons, beyond doubt. However, in the absence of a substantial increase in funds for interpretation, he believed there was a clear need for the different committees to explore ways in which working groups and other non-plenary meetings could be held without official translation. He suggested that greater emphasis should be attached to the ability of nominees for election to the treaty bodies to work in at least one, nd preferably two, of the three major languages: English, French and Spanish. Ways would have to be found in which the content of materials available in only one language could be drawn upon more efficiently for the benefit of the whole committee. Consideration would need to be given to delegating certain responsibilities to working groups capable of working without translation (ibid., para. 106).

Government comments

105. The Government of Finland indicated that reports should be available to the members of the treaty bodies in good time but noted that this had not always been the case, as a report cannot be distributed before it has been translated into all official languages.

106. The Government of the Republic of Korea viewed the suggestion that English be used as a single working language of the treaty bodies as a constructive suggestion to reduce the burdens on the Secretariat. It maintained, however, that final official documents should continue to be published in English, French and other official languages of the United Nations at the request of the States parties concerned, as is currently the practice.

Comments by non-governmental organizations

107. The NGO Group for the Convention on the Rights of the Child stated that it did not have the capacity to translate NGO documents and the United Nations would not do so. Therefore, NGO documents submitted in a language other than English were not taken fully into consideration by the Committee. In order to combat these weaknesses, the NGO Group recommended that international NGOs working at the national level translate, or provide funds to translate, NGO documents into English.

108. North-South XXI expressed regret that budgetary restrictions should give rise to non-respect for the principle of linguistic diversity. The predominance of the English language was but one of the forms of domination exercised around the world in the fields of the hard sciences and was closely

linked to the question of economic domination. In the field of human rights, linguistic domination carried with it controversial conceptions of human rights. In certain languages, the vocabulary of the "great powers in human rights" did not exist, while in contrast, in some languages of the South, there existed certain humanist concepts that were unknown in the languages of Northern countries. This diversity reflected different cultures and different values which the United Nations should respect. The reaffirmation of the General Assembly of the importance of linguistic diversity was actively supported by many non-governmental organizations, notably North-South XXI.

L. Cooperation with the specialized agencies and other bodies

Recommendations of the independent expert

109. The independent expert recommended that the Commission on Human Rights should request the High Commissioner to convene a high-level meeting over a period of two days if senior representatives of the key specialized agencies and other bodies (including ILO, WHO, FAO, UNESCO, UNICEF, UNHCR, UNDP, UNFPA and the World Bank), senior staff of the Office of the High Commissioner for Human Rights and the chairpersons of the six treaty bodies. In order to minimize costs and capitalize on other coordination efforts, the meeting should take place immediately before or after one of the annual meetings of the chairpersons. The purpose should be to explore the most constructive, appropriate, cost-effective, and mutually rewarding means of cooperation between these bodies and the human rights committees (ibid., para. 108).

Comments by United Nations agencies and bodies

110. UNICEF highlighted its close relationship with the Committee on the Rights of the Child. It supported the work of the Committee in a number of ways, including by providing technical assistance and ensuring that members of the Committee had the opportunity, through field visits, to consult with a number of actors at the country level. UNICEF also regularly supported the participation of Committee members in relevant conferences, seminars and workshops at the global, regional and national levels. It continuously promoted cooperative efforts aimed at involving the specialized agencies in the implementation of the Convention on the Rights of the Child and in supporting the monitoring function of the Committee on the Rights of the Child, particularly in the follow-up to concluding observations at the national level.

111. UNICEF encouraged other United Nations agencies to support the work of human rights treaty bodies as a means to a more effective implementation of human rights treaties and to promote a constructive dialogue on human rights between the treaty bodies and States parties.

Comments by non-governmental organizations

112. North-South XXI considered the recommendation for strengthened cooperation with ILO to be judicious.

M. The quality of concluding observations

Recommendations of the independent expert

113. The independent expert recommended that treaty bodies should strive to further improve the quality of their concluding observations, in terms of their clarity, degree of detail, level of accuracy and specificity (ibid., paras. 109, 122).

Government comments

114. The Government of Australia agreed on the need to further improve the quality of concluding observations to ensure that they were precise, clear and detailed. This would become even more of an issue if periodic reports were to be based essentially on the comments and concluding observations of a committee.

Comments by United Nations and bodies

115. UNICEF concurred with the view that it was imperative for the concluding observations to be based on the most accurate and comprehensive information available on the situation of children in each country. The quality of the concluding observations was essential in order for recommendations to be effectively implemented at the national level and to enhance the dialogue with States parties. Treaty bodies should strive to improve the quality of the concluding observations in terms of their clarity, degree of detail, level of accuracy and specificity, which would enable a more effective follow-up at the national level by all concerned.

Comments by interested persons

116. Mr. Zwaak and Ms. Boerefijn noted that recent developments with respect to the adoption of country-based concluding observations had strengthened the reporting procedure as a method of supervision, particularly as it allowed for follow-up measures at both the national and international levels. Follow-up to the recommendations of treaty bodies needed to be more solidly imbedded in the practice of treaty bodies and States. Especially when the reporting cycle was relatively long, additional measures needed to be taken by the treaty bodies to monitor compliance with recommendations. This could be done, for example, by requesting a short interim report on the measures taken, comparable to the Human Rights Committee's practice with the follow-up of views under the Optional Protocol. Domestic NGOs were also provided with an important tool to hold Governments accountable for non-compliance with treaty obligations and they would be more inclined to take part in the reporting procedure if there were a tangible outcome.

117. Mr. Zwaak and Ms. Boerefijn noted that concluding observations dealt with violations of treaty obligations, concerns as well as positive aspects, and suggestions and recommendations. In so doing, the treaty bodies kept intact an important feature of the reporting procedure, the constructive character, while adding a new component, namely expressions of concern by the treaty body as a whole. It was of great importance that the concluding observations be widely published and made accessible by the States parties

concerned in domestic languages and distributed to the relevant national authorities. NGOs could also play a role in this respect. They fully agreed with the recommendation of the independent expert for concluding observations to be detailed, accurate and comprehensive.

118. Mr. O'Flaherty noted the need for development of effective methodologies for follow-up of concluding observations. One issue which could be addressed in this context is that of the manner in which the programming of technical cooperation activities could be better linked to the content and implementation of concluding observations. In that regard, he believed it would be helpful to assess the evolving experience of the Committee on the Rights of the Child and UNICEF.

N. Other issues

119. A number of responses raised issues that were not the subject of recommendations in the final report of the independent expert. Those views are summarized in this section.

1. The role of non-governmental organizations

Comments by non-governmental organizations

120. The NGO Group for the Convention on the Rights of the Child emphasized the need to develop methods for sound national monitoring in order to provide the strongest possible basis for effective international monitoring. Although the primary responsibility for implementation of the human rights treaties rested with Governments, NGOs had a significant role to play in monitoring the extent to which compliance was being achieved. In order to fulfil this role, NGOs had to become partners in the monitoring process from the beginning.

121. The NGO Group outlined how a role for non-governmental organizations in the reporting process had slowly emerged. Reports were often prepared at the national level by one or more civil servants, normally in the Ministry of Foreign Affairs, with little or no consultation with other government offices or NGOs directly implicated in the implementation of the relevant treaty. Civil society was usually not informed when reports were scheduled for consideration by a treaty body, when they had been examined or when conclusions had been adopted.

122. The NGO Group for the Convention on the Rights of the Child noted that the Committee on the Rights of the Child had considerably involved NGOs in the reporting and monitoring process, which had been beneficial to both the Committee and to the NGO community. The positive relationship between this Committee and NGOs benefited from the support of the NGO Group for the Convention on the Rights of the Child. The NGO Group aimed at facilitating the flow of information between the Committee and NGOs as well as promoting full implementation of the Convention. At a time when the level of servicing for the treaty bodies was limited and the workload of the treaty bodies was growing, NGO cooperation with the treaty bodies should relieve pressure from the Secretariat and not add to its work. For example, the request of the

Committee on Economic, Social and Cultural Rights to send copies of reports pending consideration to a range of national NGOs in each State party would place an undue burden on the Secretariat.

123. A primary concern of all treaty bodies was how to ensure that the information before them was reliable and objective. The NGO Group had promoted the development of national coalitions of NGOs working with children which reflected the full range of issues raised by the Convention. With the specialist knowledge of its members and the diversity of perspectives that were brought together, coalitions enabled more effective monitoring of the Convention at the national level. While admittedly in need of refinement, the cooperation achieved between the Committee on the Rights of the Child and NGOs could nevertheless serve as a model to other treaty bodies.

124. The Inter-Church Committee for Refugees expressed strong support for preserving the role which non-governmental organizations had been allowed to play by submitting information in respect of the State reporting process. It raised concerns for the way in which NGO information could be abused and suggested, for example, that if NGO information was repudiated by a Government, the NGO should have an opportunity to defend itself. In addition to such technical adjustments in procedures, ways must be found to engage NGOs in a meaningful way around issues of common concern to them and to treaty body experts. In this regard, the Inter-Church Committee for Refugees suggested that a worldwide consultation process of treaty body members and staff and with domestic as well as international NGOs could be held on topics of current international concern. The PARINAC (PARtnership IN ACtion) project of UNHCR was a successful example of such an approach. The Inter-Church Committee for Refugees further suggested that a general hearing be organized on a country-, region- or issue-specific basis to enable treaty bodies and NGOs to share insights and information. The Inter-Church Committee for Refugees had participated in a General Hearing of the Inter-American Commission on Human Rights on a country, in which the Government concerned was invited to participate. Such activities could prove useful to treaty bodies in the preparation of general comments.

125. The Inter-Church Committee for Refugees pointed out that domestic NGOs had a role to play in encouraging States to assume their responsibilities to promote treaty rights at the domestic level. Domestic NGOs should therefore be used as a medium for promoting treaty rights in a State party. The establishment of an independent domestic agency to promote and articulate rights and jurisprudence credibly among relevant professional groups in the country, including civil servants, lawyers and judges, would also be helpful. A national human rights commission or ombudsperson that conformed to the Principles relating to the status of national institutions ("Paris Principles") could be an attractive way for States to promote treaty rights. Such institutions should complement and draw on the work of domestic human rights NGOs.

126. The Grand Council of the Crees (of Quebec) expressed concern regarding the process of examining State reports, which did not allow for indigenous peoples in those countries or other groups mentioned in them to review the contents of the reports before they were submitted to the United Nations. The Grand Council of the Crees proposed that countries sending periodic reports on

the implementation of human rights instruments be advised to review the contents of those reports with the concerned parties, including organizations for women, indigenous peoples, etc., and that their comments be reflected in the content of the reports. The secretariats of the treaty bodies should make special efforts to hear from concerned groups when reports were examined. In that way, the reporting process would better serve its original purpose: to determine to what extent the instruments are being respected and to correct problems where identified. At present, the submission of reports is nothing but an exercise of States in self-praise and obfuscation.

Comments by interested persons

127. Mr. Zwaak and Ms. Boerefijn suggested that States parties should be encouraged to make available their reports to NGOs immediately after submission to the Secretary-General, so NGOs would have ample time to prepare their comments. It would encourage NGOs if the treaty bodies would make it clear that they use information submitted by NGOs. As it was often not clear which information was actually used by members, it would be worthwhile if the treaty bodies would include a list of NGO reports they had received and/or consulted during the examination of State reports. The current openness of the treaty bodies towards NGOs, while warmly welcomed, could be further expanded. NGOs also had an important role to play in the reporting procedure. However, NGOs must maintain their distance from the Government. They should not be involved in drafting the State party's report; that must remain entirely a government responsibility.

128. Mr. O'Flaherty noted that the role of NGOs was adverted to in the interim report of the independent expert but not dealt with in his final report. It would be useful to clarify the continuing advances made in the practice of treaty bodies, such as the development of excellent and paradigmic NGO support for the work of the Committee on the Rights of the Child, and to revisit the question of whether NGO access to the treaty body system should be regulated.

2. Other comments

General comments

129. The Australian Government noted that little attention was paid in the report to the communications procedures, despite the importance of these procedures and the increasing communications workload of the Human Rights Committee, the Committee against Torture and the Committee on the Elimination of Racial Discrimination, as well as the proposals for optional protocols to provide for individual communications procedures under the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination against Women. The decisions of treaty bodies in respect of individual communications could be improved. Often, issues raised in a communication were dealt with in a cursory fashion or not at all and, on occasion, little reasoning or justification was advanced for a particular view reached by a committee. The lack of adequate reasoning or justification made it difficult for States parties to review their individual laws and practices. The Australian Government welcomed the efforts of committees with individual communications procedures to improve their

working methods. It also sought to pursue further reform proposals of the procedures through direct dialogue with the committees concerned.

130. The Government of Australia also stated that adequate resources were essential if the human rights treaty body system is to function effectively and if improvements are to be made to the treaty bodies' existing procedures and practices.

131. The Government of Canada considered that any significant overhaul of the treaty body system should be accompanied by a commitment on the part of the treaty bodies to adopt more flexible and efficient working methods. Areas which Canada considered worthwhile pursuing included:

(a) Expanded use of working groups or chambers, to enable each treaty body to hold parallel sessions;

(b) Focusing the list of questions circulated to each State party in advance of presentation of its report - at present, the lists were cumbersome and ineffective, and few of the questions posed could be dealt with during the presentation;

(c) Adoption of guidelines on time-saving practices, such as those suggested in the report of the eighth meeting of persons chairing the human rights treaty bodies; and

(d) Increased coordination between treaty bodies, to ensure that when a specific situation was considered by more than one treaty body, successive discussions of the issue were complementary and mutually reinforcing.

132. The Government of Israel noted that on occasion the treaty bodies offered interpretations of the various conventions that were at odds with those of States parties. These differences of opinion often related to questions of scope and competency, but they could also involve points of principle, frequently with far-reaching implications. The treaty bodies tended to interpret the conventions in a self-interested way. With regard to the present method of considering reports, the Government of Israel would recommend that the practice adopted by some treaty bodies of providing States with a detailed list of questions well before the consideration of their reports should be adopted by all the treaty bodies.

Comments by interested persons

133. Mr. O'Flaherty raised several matters that were not dealt with in the final report of the independent expert but which might benefit from further examination, inter alia, the fundamental issue of whether the treaty bodies were actually effective in bringing about improvements in the protection of human rights - an evaluation of this aspect of their performance must precede any profound reflection on their future direction. A systematic overview was urgently required. Second, on the role of the United Nations High Commissioner for Human Rights, there seemed to be a lack of concerted reflection on the implications for treaty body practice of the nature of the mandate of the High Commissioner. While there were many references to the need for cooperation, these were not located within the fundamentally changed

environment which had emerged subsequent to the publication of the interim report. Third, the process by which members were elected to serve on treaty bodies was unsatisfactory and led to the not infrequent appointment of unsuitable experts. In addition, the meetings of chairpersons were a potentially useful but underdeveloped channel of communication. Among the issues which should be considered is the extent to which recommendations emanating from the meetings were actually implemented. Fifth it would be valuable to reflect on the appropriateness of the preliminary decision of the Preparatory Committee on the Establishment of an International Criminal Court to exclude from the jurisdiction of the proposed new Court human rights treaty-based crimes, such as those deriving from the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The drafting process of the Courts Statute also raised familiar problems of human rights treaty-related issues being determined without input from the treaty bodies themselves.

Notes

1/ Not including three countries from the 1994 programme that also participated in the 1995 programme. The total number of participating countries in 1995 was 31.

2/ Not including eight countries from the 1994 or 1995 programmes that also participated in the 1996 programme. The total number of participating countries in 1995 was 21.

3/ Not including 19 countries from the 1994, 1995 or 1996 programmes that also participated in one of the 1997 programmes. The total number of participating countries in 1995 was 45.